IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 12893 of 2004

Between:

C. Nageshwara Rao S/o C. Nagaiah
R/o 10-2-94, Lakshminagar, Hyderabad

..... PETITIONER

AND

1.The Deputy Registrar of Cooperative Societies, (Arbitrator), City Circle,

Golconda Division, Hyderabad
2.The Manikanta Co-op Urban Bank Ltd., rep by Official Liquidator Premises

No. 1-7-1071, RTC "X" roads, Hyderabad
3.The A.P. Cooperative Tribunal, Chandravihar Mohanja Market Lane,

Hyderabad
4.The Divisional Co-op Officer, Golconda Division Near Exhibition Grounds,

Nampally, Hyderabad
5.A.Prakash S/o babu Rao R/o 3-5-25/1, Bharatnagar Ramanthapur, Hyderabad
6.Farhat Ali Khan,
R/o 11-3-400, Mallepally, Hyderabad

(Respondents No.5 and 6 are not necessary parties)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the orders of the 3rd respondent passed in I.A. No. 728/2004 in

CTA No. 115/2004, dated 25-6-2004 as illegal and arbitrary and consequently set a side the orders of 1st Respondent in proceedings under Certificate No.21/2004 GCUBGD dt.24-2-2004 and consequential distraint order issued by the 4th respondent in E.P. No. 582 of 2004 in Form No.2, dt.11-6-2004.

Counsel for the Petitioner: MR.C.V.BHASKAR REDDY

Counsel for the Respondent Nos.1, 3 and 4: GP FOR COOPERATION

Counsel for the Respondent No.2: MR.VENKAT DIVAKAR

Counsel for the Respondent Nos.5 and 6: None Appeared

The Court at the admission stage made the following:

ORDER:

This writ petition is directed against the order dated 25.06.2004 in I.A.No.728 of 2004 in C.T.A.No.115 of 2004 on the file of the A.P. Cooperative Tribunal, Hyderabad (for short 'the Tribunal').

As can be seen from the material on record, the writ petitioner filed C.T.A.No.115 of 2004 under Section 76(6) of the A.P. Cooperative Societies Act against award dated 24.02.2004 passed by the Divisional Cooperative Officer, Golkonda Division. Pending the said appeal, the Tribunal granted stay of all proceedings in E.P.No.582 of 2004 subject to the condition that the petitioner deposits 50% of the amount in dispute. It is to be noted that in the impugned order, it was recorded that principal amount of loan has been admitted but there is a dispute with regard to over charging of the interest and that the petitioner expressed willingness to deposit 50% of the amount as shown in Form No.2 dated 11.06.2004. The Tribunal having taken into consideration the facts and circumstances, permitted the petitioner to deposit 50% of the amount in two instalments i.e., Rs.13,215/- by 23.07.2004 and another Rs.13,215/- by 20.08.2004, failing which, the interim stay shall stand vacated. The appeal was adjourned to 20.08.2004. While so, this writ petition is filed on 22.07.2004 contending, *inter alia*, that it is not correct to state that the liability was not denied and that the condition imposed is onerous and

not justified.

This Court by order dated 23.07.2004, extended time for payment of the first instalment till 31.07.2004. Thereafter, the petitioner never sought for any further extension for payment of the next instalment. Nothing has been brought on record to show whether he has paid the first instalment within the time as extended by this Court. When the matter is called today, there is no representation for the petitioner. Since the main appeal is pending before the Tribunal and what is challenged in the writ petition is only the order passed in the interlocutory application, it appears that the petitioner is not interested in pursuing this writ petition.

Accordingly granting leave and liberty to the petitioner to urge all the grounds before the Tribunal, the writ petition is dismissed. No costs.

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02.11.2004

VGB

To

1.The Deputy Registrar of Cooperative Societies, (Arbitrator), City Circle,

Golconda Division, Hyderabad
2.The Official Liquidator, Manikanta Co-op Urban Bank Ltd., Premises

No. 1-7-1071, RTC "X" roads, Hyderabad
3.The A.P. Cooperative Tribunal, Chandravihar Mohanja Market Lane,

Hyderabad
4.The Divisional Co-op Officer, Golconda Division Near Exhibition Grounds,

Nampally, Hyderabad

5.2CCs to the Government Pleader for Cooperation, High Court

Buildings, Hyderabad (OUT)

6.2CD copies